
THE CASE

OF

GEN. O. O. HOWARD, U. S. Army,

WASHINGTON, D. C.



The Special Court of Inquiry

UPON CHARGES AGAINST

BRIGADIER GENERAL P. P. HOWARD.

Argument for General Howard by George W. Dyer, of Washington D. C., of Counsel, May 5, 1874.

May it please the Court:

It is a part of the history of the country, known to all men, that on the 3d day of March, 1865, when the Bureau of Refugees, Freedmen, and Abandoned Lands was established by law, the accused, General Oliver O. Howard, having an important command in General Sherman's Army, was on his march through a hostile country, from Savannah toward Richmond.

It is also a matter of history, that it was then the belief of nearly every thinking and observant man of the North, that the war of the rebellion was near its end, and about to result in the destruction of the confederacy.

It was well understood that in the progress of the war great portions of territory had been occupied by Federal troops, in which there lived already a great number of black people, and to which other great numbers of negroes, and numerous whites had fled as to a refuge, and from which the former owners, both of negroes and lands were fugitives.

To deal with these Freedmen, lately slaves, with the white refugees, and with the lands abandoned by their former owners, was a matter which the necessities and fortunes of war imposed upon the National Government.

A wider political sagacity forecast the time of the actual ending of the war, and by this law made in **advance** some sort of preparations for the care and guidance of **the entire** colored population of the South.

A quotation from a communication of the War Department to Congress, just before the passage of the law creating the Freedmen's Bureau, gives in glowing language a partial description of the work to be done.

"The work laid out for the Bureau of Emancipation, is of immense magnitude. Two and a half millions of wards, driven from

their accustomed shelter by the sharp catastrophes of war, landless, houseless, homeless, appeal to the Government to guard and save them. From their earliest years deprived of the light of knowledge, they are children able as yet to see only the star of freedom. They feel with hope and confidence that the flag which brings to them liberty, will spread over them the mantle of its protection. In the heart of this great people, every pulsation throbs for freedom. The instincts of natural honor will allow no faltering, and no failure in our duty to the oppressed Freedmen, who stand shoulder to shoulder in this struggle for our country's safety and renown."

After the passage of this law, of March 3, 1865, the immediate succession of stirring events, the movements of armies, the battles, the conquests, the peace, the assassination of the President, left no time for other matters, and it was two months before any movement was made to put the Freedmen's Bureau in operation.

The accused, General Howard, came in advance of his command to Washington about the 1st of May, 1865, and on the 12th day of that month was detailed by the President to take charge of the Bureau.

The preceding statements are matters of history, those which follow are based upon the evidence before this Court.

At this point, it is proper to state one of the peculiarities of this act of March 3, 1865, as upon it was based all subsequent legislation which derived from it a certain coloring, common to all of them.

This act, among other things, gave to the Commissioner "the control of all subjects relating to Refugees and Freedmen from rebel States, under such rules and regulations as may be prescribed by the head of the Bureau, and approved by the President."

That which distinguishes this law is a grant of power to a Bureau officer to an extent before unknown in the legislation of the country, making him practically independent of the head of the Department.

Thus ordered to take charge of this Bureau, and as a military officer bound to obey orders, General Howard found it necessary to organize an entirely new work, for which there were no formulas or precedents for guidance.

To carry on this work, thus proposed to be organized, large sums of money, and proper officers for disbursement were required.

It is to be noticed here, however, that this Freedmen's Bureau was not created for the purpose of expending money, which was simply one of the incidents connected with its management.

The education and the natural tastes which fit a man for a soldier, seldom develop in him great skill in book-keeping—and General Howard was no exception to the ordinary rule. He was not selected for Commissioner of the Freedmen's Bureau, for his eminence in accounts, or in disbursing public money, which a distinguished member of this Court has testified "has become a science" to which few can attain; but because it was believed that he could,

and would honestly and faithfully do his best to repair some of the social and political breaches made by war.

Accordingly he asked for General Balloch, an old military acquaintance, of long service under his command, and of experience in disbursing money, and this gentleman was assigned to him, and made Chief Disbursing Officer of the new Bureau, on the 20th of June, 1865.

He also asked for other officers for various purposes, about the same time, and occupied offices, and in the summer of 1865 the Bureau was fairly started upon its work.

Its work then and thereafter had become so modified by the events of the war that it lay almost wholly with the colored people of the South, and thereafter, and ever since, the Bureau has popularly been known as the Freedmen's Bureau.

Its immediate pressing work in the summer of 1865, and for four or five years afterwards, was mainly educational in the largest sense of the word.

Here was a large portion of captured country with some four millions of Freedmen, who at first thought that liberty might include license and possibly laziness, and seven millions of white people who were naturally sore at the turn of events, and commonly bare of all property except land.

Both of these classes were to be *educated* so as to live in harmony with each other and all the world, and be fit for citizenship, and capable of self support.

On July 16, 1866, the Bureau having proved a success, it was extended by act of that date, with powers more ample even than before, and generously supplied with money.

On March 29, 1867, the payments of bounties to colored soldiers was imposed upon the Bureau at the instance of the accounting officers of the Treasury Department, and for the benefit of such soldiers who, under existing modes of payment, were likely to lose a large part of their dues.

The particular work of paying bounties devolved upon General Balloch, and was continued by him while he remained in the Bureau.

On June 24, 1868, the Bureau was extended again, with no limitation or restriction upon its former powers, and again by act of July 25, 1868.

On April 6, 1870, on motion of Hon. Fernando Wood, of New York, an investigation was ordered by the House of Representatives of the Forty-first Congress, upon charges preferred by Mr. Wood against General Howard in his official character as Commissioner of the Freedmen's Bureau.

This investigation occupied three months, and resulted in the adoption of the following resolution:

“*Resolved*, That the policy pursued by the United States toward four-and-a-half millions of its people suddenly enfranchised by the events of a great civil war, in seeking to provide for their education, to render them independent and self-supporting, and in extend-

ing to them civil and political equality, is a service of just national pride; and that the House hereby acquits Major General Oliver O. Howard, of the groundless, and causeless charges lately preferred against him, and does hereby declare and record its judgement, that in successfully organizing and administering with fidelity, integrity and ability the Freedman's Bureau, which has contributed so much to the accomplishment of the first two of these great ends, he is deserving of the gratitude of the American people."

On October 11, 1871, General Balloch was relieved wholly from duty as disbursing officer of the Bureau, and was succeeded in that capacity by General Howard himself, and he in turn by Major J. M. Brown.

On March 7, 1872, General Howard went to Arizona upon proper orders, and was absent until June 20, 1872. Before he went away however he had submitted estimates of expenses for the next fiscal year, including a certain amount for completing the records. He had also instructed General Whittlesey his Adjutant General, to ask Congress to grant him, in addition to the small sum named, a little extension of time for putting affairs of the Bureau in proper order for turning over to his successor.

The efforts of General Whittlesey in both particulars were rendered ineffectual by the action of the Secretary of War, who preferred the immediate transfer of the Bureau, since it was proposed to put it under his future charge.

On June 10, 1872, while General Howard was absent the act was passed which transferred the Bureau to the Secretary of War, who put it in charge of Assistant Adjutant General Thos. M. Vincent.

General Howard had returned from Arizona on June 20, 1872, with a party of Indians in charge, the care of whom, and the preparation of reports in connection with the Indian affairs, occupied his time for the next twenty days.

At the end of that time on July 10, 1872, he visited Arizona again on official business, and was absent from Washington until November, 1872.

After his return, his time was given almost exclusively to Indian affairs until the early part of 1873, when he was able to devote his attention to the closing up of the affairs of the late Bureau.

On January 11, 1873, the Secretary of War made a communication to Congress forwarding a report "on the condition of the affairs of the Freedmen's Bureau," the tenor of which was a sharp criticism by way of inference, upon the management of that Bureau by General Howard, and a manifest distrust of his truthfulness.

This was followed on February 7, 1873, by a communication to Congress, by General Howard in reply, which was in substance a warm and rather indignant denial of the inferences contained in the report, accompanying the previous communication of the Secretary of War.

In March, 1873, one Shaw, made, by letter, a complaint to the War Department, certain material statements in which were afterwards found to be erroneous, upon which complaint the attention

of Assistant Adjutant General Vincent was directed toward the financial affairs of the late Bureau.

Other complaints arising in the Adjutant General's office, in regard to incompleteness of the records transferred from the Bureau, led to additional correspondence, and some researches in this particular.

Certain cases where there were complaints that bounty for colored soldiers had not been paid to the proper claimants, were about this time forwarded by the Second Auditor of the Treasury, for transmissal to the Department of Justice, for the purpose of prosecuting the parties supposed to have actually defrauded the soldiers.

These cases of complaint were forwarded by the War Department to the Attorney General with an enquiry as to the responsibility and culpability of General Howard and his principal disbursing officer, General Balloch.

Upon a report of the Attorney General, the import of which to persons unskilled in law, would seem to be that the law-officer named had been of opinion that General Howard was responsible pecuniarily, for all public moneys disbursed by other people connected with his Bureau, however remotely, the War Department took up seriously the matter of investigation of the financial affairs of the Freedmen's Bureau.

These investigations resulted in the report of Assistant Adjutant General Vincent, of August 4, 1873, also a subsequent report, of September 23, 1873, also a report of Inspector General Shriver, of October 3, 1873, all to the Secretary of War.

That official, on December 4, 1873, addressed a communication on the subject to the Speaker of the House of Representatives of the United States, and on January 5, 1874, a subsequent communication.

These letters being referred to an appropriate committee resulted in the resolution of February 16, 1874, under which this Court was organized, and from which it derives all of its powers.

With these preliminary remarks by way of brief statement of facts, I proceed to consider the authority and duty of the Court, in the premises.

This Court has authority to investigate in reference to certain charges of the Secretary of War against General Howard, and report their opinion whether or not there rests upon General Howard a moral, technical, or legal responsibility for offences, if any, which may be discovered upon such investigation.

The particular language of the act in question is unusual, but the meaning is hardly doubtful. The key-note to the whole is the word "offences," which word, in a law, undoubtedly signifies violations of law. (See Webster, Worcester, and Bouvier.)

Another important word in the act is "responsibility," and, in connection with the qualifying words, "moral," "technical," and

"legal," it most certainly means a responsibility created by operation of law, resting upon General Howard, which is a legal responsibility—a responsibility arising from neglect or want of good conduct upon his part, which is a moral responsibility—or such an act on his part as amounts to a violation of form, which is a technical responsibility. But this "responsibility" is clearly the responsibility of General Howard alone, while the "offences" may be the acts of other persons.

Restated then, the duty and authority of the Court would appear to be to determine from the proofs submitted to them.

1. Whether there has been discovered any "offence" or violation of law on the part of General Howard, who in that event is of course responsible.

2. Whether there has been any offence or violation of law on the part of any other person.

3. Whether for such offence or violation of law on the part of another person, a responsibility rests upon General Howard, either moral, technical, or legal.

It is proper to say here that it is quite evident that there is a difference or disagreement between the accounting officers of the Treasury Department and the officers of the Adjutant General's Bureau of the War Department, respecting the duties of the accounting officers referred to, so far as affects General Howard and the Freedmen's Bureau.

This difference or disagreement is mainly that the accounting officers of the Treasury deal with suspended balances against all disbursing officers, as matters of mistake, subject to and removably by explanation, and the Adjutant General's Office treat the same balances upon the part of disbursing officers of the Bureau as debts certainly, as fraudulent debts probably, to be paid at once, and explained and corrected afterwards.

It is the misfortune of the accused, General Howard, thus placed between these two differing sets of officials, that he himself is an officer of the Army, as it renders him amenable to pay money when he may believe that he ought not to pay it, or be liable to punishment for disobedience of orders if he does not pay it.

In view of all the foregoing, we proceed to consider the charges made by the honorable Secretary of War in his own order of enumeration, and in the light of the testimony adduced.

FIRST CHARGE, 174 bounty cases, in which claimants are supposed to assert more or less clearly that they have not been paid their dues by the Government.

It appears that in each of these cases the proper amount of money was sent either by General Howard, or Balloch, or Brown, his disbursing officers.

There is no conclusive proof that the money was not received in every instance by the proper claimant, except in that of Harriet A. Walker, where the money was returned to Major Brown, who acknowledges his own liability for the same, and relieves General Howard from all responsibility therefor.

Among these cases, those examined in the Runkle Court-martial appear to have been treated by the Court, as instances where money forwarded by the Bureau had not been paid to the proper claimants, as the Court awarded a fine upon Runkle sufficient to cover their amount.

This fine the President remitted, and by this act of discharging the pecuniary liability of the principal offender, destroyed all pretence of looking back of Runkle, to fix any responsibility upon parties forwarding money to him.

Of these 174 cases, 165 were paid by General Balloch, 7 by General Howard, and 2 by Major Brown.

It has been proved, by the concurrent, harmonious, and consistent evidence of the Chiefs of Bureaus of the War Department, and the accounting officers of the Treasury, that the only pecuniary responsibility of General Howard for the official acts of his disbursing officers was that which would arise from a lack of proper diligence, prudence, and care upon his (Howard's) part, in his official character as Commissioner of the Freedmen's Bureau, (See also *United States vs. Thomas*, 15 Wallace, 337.)

It also appears from the testimony of the accounting officers of the Treasury, that should it turn out that any part or the whole of the amount supposed at any time to have been due these 174 claimants had not in fact been paid to them, and was still due, the Treasury officials would have the right to state a new account, suspend the amount against the disbursing officer, and upon proper proof of diligence, care, and prudence upon his part, discharge him of all responsibility for the same.

This is the most serious view of this charge which can be presented, as affecting General Howard, namely: That at some future day he may have a new account stated, a suspension ordered, and be called upon for explanation. Such a suspension appears from the testimony of the Second Comptroller to be no "offence."

To state briefly the answers to this charge in their order they are:

1. No fraud is charged or pretended against General Howard, or either of his disbursing officers, in this particular, and therefore there is no "offence" of any character. It can be no violation of law, or of morals, to pay money innocently to wrong people. Where there is no "offence" there is no "responsibility."

2. The accounting officers of the Treasury have settled the accounts, so far as relates to these matters, and will not reopen them except upon proof of fraud.

3. The money was in these cases all paid out by General Howard or his disbursing officers, and none returned, except:

4. Harriet A. Walker's money, of the return of which no notice was given Howard or Brown, but for which the latter holds himself personally responsible, and for which his official bond is available.

5. In the instance where the claimants were probably defrauded of their money by the sub-agent, and were afterward placed in the way of its collection by fine against the guilty party, the Executive of the United States remitted the fine.

6. The evidence is overwhelming as to the care, fidelity, and diligence of General Howard in his official administrative character.

7. Major Vincent, in his report to the Secretary of War, regards this matter as a violation of the acts of August 6, 1846, and of March 2, 1863, the first of which directs officers to "keep an accurate entry of each sum received, and of each payment or transfer," and the second forbids the officer from presenting claims for settlement, which he knows to be false, fictitious or fraudulent.

8. The proofs distinctly bring this matter out of the reach of either of the acts cited.

THE SECOND CHARGE, the defalcation of Mandeville, requires but brief attention :

Mandeville was appointed by General Howard on excellent recommendation, and it appears to have been deserved. He gave sufficient bonds. He and his clerk were cut off by disease at about the same time.

After his death, several persons asserted that Mandeville had not in fact paid them, when the record exhibited proofs of payment. Mandeville's bond was promptly put in suit by General Howard, and this has been, and is now, defended by the sureties. Upon this charge, we answer:

1. That there was no offence or violation of law in the appointment of Mandeville by General Howard.

2. That there is no proof that Mandeville was a defaulter.

3. That if he was, his bond will make good the deficit.

4. General Howard has exercised great care, prudence, and diligence in this matter, and, morally, is less responsible for loss, should any occur, than are the heirs of General Mower, who recommended Mandeville.

5. Major Vincent reports this matter as a violation of the act of July 17, 1862.

This act requires officers to settle accounts monthly instead of quarterly. It requires a violent exercise of the imagination to bring the case of Mandeville within the provisions of this act, as Mandeville did not have to render any accounts to the Treasury, even when alive. There is no pretence that Balloch, Howard and Brown did not render monthly accounts.

THE THIRD CHARGE, the O. C. French defalcation deserves scarcely any attention.

French was well recommended, and gave a good bond, which was promptly put in suit, and nearly all the debt has been paid, and it is apparent that the whole will be collected, if it has not been already received.

1. Upon this charge we say :

French's appointment by Howard was not an offense—against either law or morals.

2. Good bonds was required.

3. Suit promptly commenced.
4. The debt nearly or all collected and wholly secured.
5. Major Vincent reports this matter as a violation of the same act, as that cited in Manderville's case, and no comment seems necessary.

FOURTH CHARGE, is the amount in Runkles hands \$673 24. This was collected by the United States by stoppage of his pay, long before the sitting of the Court.

FIFTH CHARGE, of money paid Runkle \$1,331 03, the proof is that this was Balloch's private money, loaned by him to Runkle, and a promissory note taken back, and there is no contradictory evidence in this regard.

SIXTH CHARGE, under the proofs covers the conversion of bounty money into Government bonds, and the disposition of the interest arising from the same.

It appears from the testimony, that this bounty money accumulated in General Howard's hands much faster than he could use it, and it occurred to him, that if he could invest a portion in Government bonds, the interest would supply a fund out of which payments could be made for the benefit of the Freedmen.

Before making any such investment he consulted the Second Comptroller, and other Treasury officials, and upon their sanction, purchased the bonds, deposited them in the Treasury, used the accretions for payments under the 2nd section of the act of June 15, 1866, accounted for the same with the Treasury, and has had his accounts allowed.

When ordered so to do, he sold the bonds, and replaced the money in the Treasury.

To this charge we answer:

1. The conversion was no *offense* against law, in the judgment of the Second Comptroller.
2. There was no offense in its use, as he used the proceeds for public purpose.
3. No money was lost to the Treasury, but money was gained thereby.
4. The increase was accounted for under proper laws.
5. No fraud is charged, or imputed against him in this transaction.

Upon this charge, Major Vincent cites the acts of August 6, 1846. March 3, 1857, March 2, 1863, and June 14, 1866. The first requires entries of receipts and payments. The Government had all of General Balloch's books of account in their possession, and made no proof in this regard. The act of March 3, 1857, requires deposits of Government money to be made in the Treasury or a public depository. There is no proof that this was not done. The act of March 2, 1863, forbids the presentation of claims, which officer *knows* to be false, fictitious or fraudulent. There has been

no proof even against Balloch to this extent, and far less against Howard. The act of June 14, 1866, forbids deposit of public money except in the Treasury, and also the use of public money by officer to his own use. There is no evidence upon either branch against either Howard or Balloch, but the proofs are the reverse.

THE SEVENTH CHARGE, occupies much space in the exhibits of the Honorable Secretary of War.

Briefly the retained bounty fund, the subject of this charge, was local bounty withheld by order of General Butler, for colored recruits credited to quotas of certain Northern States, and came into General Balloch's hands as trustee, by the terms of the President's order, of June 2, 1865.

General Balloch kept this fund in a Government depository, and paid it out openly and notoriously to claimants as they applied, rendering accounts and vouchers to the 3d Auditor, and reporting it in the annual reports of the Freedman's Bureau to the Secretary of War, up to 1869.

The 3d Auditor would not examine and settle the accounts, which were taken, to the 2d Auditors who would not examine and settle them, and they were taken away by General Balloch, and became finally lost, as fully explained by him.

The balance, as required by law has been accounted for and turned over properly.

No complaint has been made in any instance that the claimant has not been paid.

To this charge we answer :

1. That there was no *offense* on the part of General Howard or of Balloch even in this transaction.

2d. It was not a Government fund.

3d. There was no concealment about its management.

4th. Accounting officers of the Treasury would not settle the accounts connected with it.

5th. It has since been accounted for.

6th. Major Vincent reports this matter as a violation of the acts of March 3, 1817, August 6, 1846, March 3, 1857, and July 17, 1862. As this money was, in no sense, public money, none of the foregoing acts are applicable except the first, or act of March 3, 1817, and the Treasury Department could not, and would not, settle the account. When, under the act of March 7, 1867, it became in any way public money, steps were taken for a proper settlement.

THE EIGHTH CHARGE has two branches, one for \$36,314.77, misapplication, the other \$73,048.40, for wrong payments. As admitted by the witnesses for the accused, each branch is erroneous and untrue, and, legally, General Howard is not called to answer to it, and the Court would not be authorized to make any finding or opinion upon it. The entire authority of the Court is confined to the law creating it, and that law directs them to examine the charges contained in the two letters of the Secretary of War, and their power and

duty ends at that precise point. It follows then if this charge be restated, put in new language, and changed in meaning, it is not the charge contained in the Secretary's letter, but a charge which is not found there.

The charge, however, as restated and explained is not proved, as facts are required to be proved in a proceeding of a criminal nature, clearly, distinctly and beyond a reasonable doubt. 3 Greenleaf Evidence, paragraph 29.

The \$36,314.77 branch of the charge, according to Vincent, should have deducted from it an amount of \$25,240.83, and possibly, according to Harrison, the same item should also be deducted from it and there is left a balance of \$11,073.94.

According to Harrison the further sum of \$13,460.14 may also be deducted, and there is nothing left.

This sum, larger or smaller, is said to have been improperly taken for educational purposes. Referring to General Howard's statement, that he had, at the time this money was disbursed, funds other than appropriation funds, and referring to his last financial report to the Secretary of War, found on page 41 of the printed charge exhibit, it is not only far from clear that any of the appropriation funds were improperly used in the disbursement of this item of \$36,314.77, or the sum as it would be if properly stated, but the weight of testimony is decidedly against such a supposition.

This same view applies equally to the hypothesis that some part of these disbursements came from appropriations of a former year not available for such use.

The statement of Assistant Adjutant General Vincent is made up in the light of the act of June 14, 1866, and constantly and persistently ignores the later act of June 15, 1866.

To the other branch of \$73,048.40 the foregoing remarks are applicable to a great degree.

From this sum Vincent and Harrison agree that \$25,240.83 should be deducted, and Harrison, the expert by the way, who spent weeks, if not months of labor on the figures, is in doubt if \$13,460.14 more should not be deducted. This would leave \$34,347.43, and this sum agrees with Balloch's statement, which is the only clear one given by any witness about this charge.

He (Balloch) admits that he took, as he thinks, about \$35,000 or \$36,000 of the bounty fund, to enable him to keep in operation the machinery of paying bounties, such as clerks, agents, and offices, and returned it to the proper fund in a short time, and as soon as an appropriation was made. He defends his action upon usage, and upon the law of necessity. His principal duty under the law was to pay the bounties to needy claimants, poor colored soldiers, who were not overpaid at best for services, the value of which soldiers only can appreciate. He could stop the machinery for the payment of bounties, and the payment of bounties would stop. He could borrow the bounty money, and thus keep up the machinery for its payment, and pay it out in bounties, and he did so.

There are instances, where to follow all the forms of the accounting law, is to destroy the desired effect of it. There are instances where a strict obedience to the law would be a crime.

A quartermaster who buys horses, and has money to buy more, but has no specific funds wherewith to buy corn and hay for the horses, and consequently allows the horses to starve, ought to be cashiered.

All of these laws in regard to the accounting of public money, are to be construed according to the law of necessity.

Such laws have no more moral significance or force, then a law would have regulating the size of the pigeon holes, in which files are kept. Within the past month the complaint has been made on the floor of Congress that laws forbidding transfers and the use of balances had been, and always would be, constantly violated by the heads of the departments of the United States.

To this branch of the charge there are various answers.

1. General Howard did not know of the transaction. The testimony is positive upon this point.

2. The accounting officers settled this account, and their acquittance a judgment upon the law and the fact which neither this court, or any one else can go behind, while the account remains closed, as it is to this day. Act of March 30, 1868. *Chappeldaine vs. Dechanax*, 4 Cranch, 114.

3. The law supposed to be violated was inoperative at the time and long afterward in the Third Auditor's Office, and the money was used only for the benefit of the soldiers.

4. There was no loss to the Government, and there was a benefit to the soldiers.

5. Balloch's motives were commendable and not blameworthy when these payments were made, and the accounts settled.

6. It follows then that if an offense was committed, which is questionable, it was committed by General Balloch. General Howard is not morally responsible, because he did not know of the act of his disbursing officer. He is not legally responsible, because the principal is responsible only for the lawful act of his agent, and never for the unlawful act, unless it is done by his express direction. Story's Agency, paragraph 319.

7. Major Vincent reports this matter as a violation of the acts of March 2, 1863, of January 31, 1868, of July 12, 1870, and of the 39th Article of War. The act of March 2, 1863, forbids vouchers known by the officer to be fraudulent. That of January 31, 1868, forbids the President from authorizing transfers of appropriations in the same department; and that of July 12, 1870, provides that unexpended balances at the end of the year, shall be applied only to payment of expenses incurred during that year, or upon fulfillment of contracts made within that year. The last named act alone appears pertinent in this matter, and the proof is not of that clear and convincing nature required in criminal proceedings, which would show a violation even of this act. The 39th Article of War relates to an embezzlement or criminal misapplication of

money, and it is simply ridiculous under the proofs to seek to give it any relation to this particular matter.

There remains then only the supplementary charge of erroneous balances at the Treasury, recited in the Secretary's letter of January 3, 1874.

To this charge the answer is simple and direct.

1. The charge is groundless in fact, and the testimony is overwhelming upon this point.

2. If there had been anything in the charge, there is not a particle of evidence that General Howard knew anything about it.

There is no "offense," and of course no "responsibility" of any sort, resting upon General Howard in this particular.

In addition to the charges proper set out specifically in the letters of the Secretary of War, upon which we have commented, there are in the papers attached to the letters of the Secretary of War, by way of specifications, minor matters which merit more or less attention—namely:

- A. The confusion and incompleteness of records.
- B. The Shepherd voucher.
- C. Balloch's mode of doing business.
- D. General Howard's mode of doing business.
- E. Seventeen complaint cases not included in the 174 cases.

A. With regard to the records, the evidence is so full, as to their condition, and as to the explanations and excuses, with regard to their absolute completion, that nothing more need be said, than that—

- 1. There was no offense or violation of law to begin with.
- 2. General Howard was away on duty when the confusion and incompleteness, if ever, occurred.
- 3. It is doubtful from the proof, if it ever did occur to an unusual extent.

B. The Shepherd Voucher.

This account was twice rendered, and two credits taken for it. It was done by General Balloch. General Howard believes that he first found it out, and informed the War Department. Major Vincent believes that *he* found it out before General Howard did.

This is not a matter of the slightest consequence, since it is indisputable, that General Howard informed the War Department of the transaction as soon as he (Howard) heard of the error.

The answer upon this subject is obvious—

1. It was General Balloch's matter, and not General Howard's.
2. If it was an offense, which is very doubtful, as it was clearly a mistake in accounting, it was Balloch's and not Howard's
3. Balloch accepts the responsibility and holds himself ready to pay, if he cannot explain.
4. There was no moral or legal responsibility of General Howard's for this offense, if there was any, because he evidently was not conscious of its occurrence, and certainly could have had no fraudulent intent with regard to it.

C. Balloch's mode of doing business, simply was not that of the Adjutant General's office. It performed more work for the same money, with about the same proportion of mistakes and losses. There is no offense or violation of law here upon the part of Balloch, as the law did not prescribe the particular mode of doing the business. As to apparent irregularities in his mode of doing business, his explanations are satisfactory and conclusive.

At all events, even the opinion of the Attorney General, given in the exhibits, does not go so far as to state that the "responsibility" of General Howard under the act of March 27, 1867, extended to modes of business.

D. General Howard's mode of doing business has but one uniform presentation by the testimony. It shows, in strong light, an honest, faithful, vigilant, prudent, diligent official, doing his work with his whole heart, and mind, and strength.

There is no single instance of neglect, inattention, or indifference.

E. The 17 cases are subject to the remarks before made about the 174 cases. In such of the cases, where money was returned, it was paid over and accounted for. In one instance, under orders from the War Department, it was evidently paid by General Howard when he ought not to have paid it.

In no instance is there any offense or violation of law, and, of course, no responsibility of any kind for such offense.

It will be observed that in the preceding consideration of the particular charges, and the incidental matters of complaint in the specifications, nothing has been said about General Howard's "technical responsibility," for the violations of law by others.

Of course, if the violations of law had been by himself, there would have been a direct legal responsibility.

I have preferred as a matter of convenience to treat this matter of vicarious responsibility by itself, and free from all mental disturbances of moral and legal responsibility, for the obvious reason that from its nature, it is a minute subject at best, and required a steady and constant examination in order to see it at all. It is not difficult to understand a "moral responsibility," as one imposed by a due respect for the laws of God; or a legal responsibility as one capable of enforcement by the laws of man; but a "technical responsibility," which is dependent neither upon the laws of God nor

man, is not readily apparent. The construction adopted by the Court, upon the second day of its session, that the word technical "as defined by Webster and by Johnson," should be accepted, does not wholly free the question from embarrassment. That construction would confine the responsibility as one belonging to the profession of General Howard, or in word, a soldier-like or officer-like responsibility for the violations of law by other people.

I understand it to be grounded belief, among officers of the Army, that technicalities are especially under the management of the office of the Adjutant General, and therefore a critical examination has been made of the letters proceeding from that office, and printed in the various exhibits, in order to find the technical responsibility of General Howard, for the offenses or violations of law by other persons.

I confess, however, that this examination, has not made this matter quite clear, and I have therefore carefully read for information, the testimony of the Adjutant General Townsend, and the Assistant Adjutant General Vincent.

I find in the testimony of the latter, upon the eighth charge, that he believes that General Howard is "responsible" for the sum of \$36,314.77 paid by General Balloch, and ought to be compelled to pay that amount back to the United States, while at the same time he admits that no part of the sum has been lost to the United States, and the true amount is not \$36,314.77, but \$25,240.83 less than that sum, or \$11,973.94, in the whole.

In other words, that a disbursing officer, who pays just debts of the United States, out of United States moneys in his hands, but from the wrong fund, is "responsible" for three times the amount, and ought to be made to pay it.

Likewise in the model account B, upon page 14, of the charge exhibit, as it "should have been stated to the Treasury Department" which account is the production of Major Vincent, it is found to be the duty of an officer of the United States Army, who is without Government money, to pay all bills coming properly to him, out of his own pocket, and afterward get the money back from the United States if he can.

A responsibility of some kind to pay these bills must of course attach to this officer in the model account.

These sorts of responsibility I am quite sure are neither moral or legal, and if of any kind, must be "technical responsibilities" as regarded by an Assistant Adjutant General of the Army.

Preferring, however, to accept the definition of the Court, I premise that there must be an "offense" or violation of law, by some person before the question of General Howard's "technical" responsibility therefor can be considered.

Has there been any violation of law on the part of any person in any of the transactions covered by the several charges of the Honorable Secretary of War?

I can find proof upon none, except possibly that covered by the eighth charge, and by the Shepherd voucher.

With regard to the eighth charge, has there been proof to show

such unofficer-like conduct upon the part of General Howard as would make him "technically" responsible?

The wrong act, if any, it will be remembered, was done by Balloch, and General Howard knew nothing about it. The monthly account gave the cash balances and payments correctly.

The abstract, when presented, was apparently correct in form. There was nothing in the transaction to attract General Howard's attention.

If he thought anything about it, it would be that Balloch had followed his advice, and borrowed the money on his personal responsibility. The memoranda about checks upon the vouchers would not have been inconsistent with this belief.

There was nothing then in this transaction so far as relates to General Howard, inconsistent with the officer-like conduct, uniformly attributed to him by all the witnesses.

And with regard to the Shepherd voucher, it is apparent that General Howard remembered nothing of the first voucher when the second one was filed. The instant he was informed of the second voucher he reported the occurrence to the Secretary of War, and asked the Third Auditor to cancel his approval upon the voucher. Was not this conduct eminently officer-like? Would not a different conduct have been unofficer like?

With regard to any other transactions embraced in the charges, and accompanying exhibits, which may have been overlooked in this review, it is asserted, confidently, that the conduct of General Howard will be found upon the proofs to have been that of a vigilant, careful, honest, and high minded officer, most scrupulous even in small things, where such covered any question of duty, or of right or wrong.

Having thus considered somewhat in detail the particular charges, it will not be out of place to present some general views and considerations affecting the whole matter.

General Howard was placed at the head of a new Bureau, having for its great and primal object the noble purpose of converting an ignorant and long oppressed people into better material for a common citizenship with the white people of the United States. To this purpose, his turn of mind, his religious education and belief, more than all, the native generosity and manliness of his nature all inclined.

To it he gave more than duty called for—namely, an exact and conscientious discharge of his labors; he gave every power of his mind and heart with an enthusiasm not only striking but touching, as compared with the ordinary performance of official duties.

His whole soul was in the great purposes of his work, and the

details of the expenditures of money were committed, as they necessarily must have been, to subordinates.

Yet, even here, he used all the ordinary safeguards, checks and investigations in use in other Army Bureaus.

He called to his aid, in the various Southern States, men of mark and character in the Army, men of historic fame. He collected immediately about him officers and civilians, some of whom have been before this Court, and all of these, without exception, prove to be gentlemen who left the Bureau to step into positions of equal or greater responsibility, to which men of uncertain character and of doubtful ability are not invited.

When the conduct of this Bureau was investigated by Congress, the committee reported the result in language never more applicable than at this moment.

“Has the Bureau been a success?”

Success! The world can point to nothing like it in all the history of emancipation. No thirteen millions of dollars were ever more wisely spent; yet, from the beginning this scheme has encountered the bitterest opposition and the most unrelenting hate. Scoffed at like a thing of shame, often struck and sorely wounded, sometimes in the house of its friends, apologized for rather than defended, yet with God on its side, the Freedmen's Bureau has triumphed; civilization has received a new impulse, and the friends of humanity may well rejoice.

The Bureau work is being rapidly brought to a close, and its accomplishments will enter into history, while the unfounded accusations brought against it will be forgotten. There is a day and hour when slanders lives not. When the passions of men subside, and when the dust of time has well fallen, then comes the hour of calm judgment.

Many-tongued scandal has the briefest of existence.

A wandering night-moth,
Allured by taper gleaming bright,
Now busy, now all darkening,
She snaps and fades to empty air.

Evil is quickly forgotten, truth alone is abiding.

In conclusion the committee find on the whole case, that the charges are utterly groundless and causeless; that the Commissioner has been a devoted, honest, and able public servant.

The committee find that his great trust has been performed wisely, disinterestedly, economically, and most successfully. If there be anything in the conduct of the affairs of the Bureau which could excite a suspicion, even in the breast of partisan or personal hate, it is owing to the fact that General Howard, conscious of his own purity, intent on his great work, has never stopped to think of the

appearances which men of less conscious integrity much more carefully regard."

Under the administration of General Howard the Bureau disbursed above twenty millions of dollars. In business of such magnitude mistakes are inevitable. When the business was new as in this instance, and had to build the road over which it was traveling, the chances for mistakes were increased. Yet the result of the whole, as it now appears, is that General Howard's and Major Brown's personal accounts are settled at the Treasury, and of the enormous disbursements made by General Balloch, there are suspensions of some \$20,000 altogether.

Under the administration of General Howard, the payment of bounties to colored soldiers was made more rapidly, more cheaply, and just about as safely as at present.

In all the transactions of the Bureau, now before the Court, there is no charge of fraud, or of dishonesty upon the part of General Howard, and more than that there is no such imputation from any responsible source.

It turns out in this investigation that the accounting officers of the Treasury, whose duty it is by law to settle all money accounts, regard their trifling suspensions in General Howard's accounts as ordinary matters, importing no violation of law, but calling for explanations, and removable upon such explanations.

On the other hand, the officials of the Adjutant General's Office whose duty by law, is *not* to settle money accounts, insist by their action, that the accounting officers of the Treasury either do not know their duty, or if they know it, that they do not perform it.

Between these two bodies a contest arises, from which General Howard now suffers, and from a repetition of which any officer of the Army is liable to suffer.

There being no charge of fraud or dishonesty alleged or imputed to General Howard, this whole subject of difference between the two opposing sets of officials resolves itself into a question of accounts.

In this view it matters not whether General Howard in fact owes certain moneys to the United States or does not owe them. If he does not owe them, then there is an end of the matter. If he does owe them, it is certainly no crime, no offense, no violation of law, to owe money to the United States, *so long as the account is unsettled*. When the account is settled, and a final balance struck, and General Howard is notified thereof, and declines or neglects to pay, then the United States may proceed against him as a debtor, but not as a criminal.

That time has not yet come; the accounts are not yet settled—the final balance struck, or General Howard notified of his indebtedness.

The Court will bear in mind, and keep steadily in view, that the question presented by law to them is a different question from that

presented to the Attorney General by the War Department, and found on page 3 of the Charges' Exhibit.

The question presented to the Attorney General was as to the pecuniary responsibility of General Howard, and the answer to this question is embraced in the opinion of the law officer named.

The question presented by the Government to this Court is, whether there has been a violation of *law* by anybody, and if so, whether General Howard is responsible for that violation of law. Therefore, the opinion of the Hon. Attorney General, as presented to this Court, is of no consequence whatever, and has no application whatever. Any different view would be to constitute this Court, composed of officers of long service and large experience, well-skilled in all matters of conduct which affect the character of a gentleman, into an auditing committee on accounts, in which, with one exception, they could not be expected to be expert.

At the risk of being tiresome, this point, which is vital, is reiterated: This Court is to consider the question of the violation of law, and the responsibility of General Howard therefor, and *not* the question of General Howard's indebtedness to anybody.

In conclusion I have some remarks which my individual sense of duty as counsel for the accused compels me to make.

The communications of the Secretary of War to Congress containing these charges are so drawn, either purposely or thoughtlessly, as to present General Howard to the country as a virtual defaulter, or robber of the Government, of a sum amounting to several hundred thousand dollars. I believe that this communication was signed by the Honorable Secretary without full examination or consideration, and in the ordinary routine of his office. It is now clear that these charges of the Honorable Secretary have been cruelly unjust to General Howard.

To the true soldier there is nothing so dear as his character for courage, honor, and truthfulness. His honesty must be beyond question. His place among his military friends must be maintained by his constant personal character.

A man in high political place may be wickedly slandered over and over again, and his political associates think none the less of him, as he has been held up to public view in just the same way they have been, or may expect to be. An Army officer's good reputation, however, stands among his associates as a woman's chastity does among women. It is not often assailed in either instance, but when assailed, whether truthfully or not, it is tarnished, and many years of circumspect conduct hardly restores it to its original lustre.

This attack upon General Howard, whether intended or not for mischief, has come from members of his own profession of less service in the field and of less military reputation, who ought to have known what its effect must have been.

He calls upon you, his judges, by your decision in this investigation, to relieve him from the unjust but widespread imputation

against his honesty, his truthfulness, his soldierly honor, to acquit him before the whole country of any attempt or any intent to do any wrong ; and, more than all, to so express yourselves that the comrades of his youth at the Military Academy, and his older and well-tried associates in battle, in march, and in camp, may never have reason, publicly or privately, to be ashamed that they called themselves friends of General Oliver O. Howard.

STATEMENT

OF FACTS

By Brig. Gen. O. O. HOWARD.

May 1, 1874.

[*Statement to the Court of Inquiring Constituted by Executive Order.*]

WAR DEPARTMENT.

February 16, 1874.

GENTLEMEN: I will attempt to make a plain statement in answer to the charges contained in the communication of the Hon. Secretary of War, now the subject of your investigation, which was sent to Congress, of date December 4, 1873.

The letter begins in a business like manner to present the case, doubtless without any premeditation to do me a wrong, yet the very commencement I deem unjust to the Bureau over which I had administrative charge.

DEVELOPMENTS.

1. The "certain developments" therein named (page 1) do not appear to have arisen of themselves in the ordinary course of business, but seem to have been the result of careful and continued search and special effort on the part of certain officials of the War Department and clerks. Major Thomas M. Vincent's letter to the Secretary of War, of October 7, 1872, (sent to Congress,) indicates the character of the strictures made upon the late Bureau, so that the expression, "Hence no special search was made bearing upon them" (meaning the developments) is plainly an error on his part.

CORRUPTION.

2. The next sentence of accusation, beginning with "complaint after complaint," and ending with "strong proof was presented that the claimants had not been paid," gives a picture of accusation which has been often transferred to the press of the country, and which on one occasion I, myself, saw presented with embellishments to a Philadelphia audience of some two thousand people as a remarkable illustration of the corruption of the times. Without explanation the statement carried an inference that was cruelly unjust to me. It appears that the complaints from colored soldiers are not disproportionate in number, when compared with those from white

soldiers, though for many plain reasons they might reasonably be expected, to be much more numerous.

Notice in this connection the letter of the 2nd Auditor to the Secretary of War, of April, 1872, which shows, in this connection, the remarkable aid rendered by the Freedman's Bureau to his office.

FILING VOUCHERS AT TREASURY.

3. The filing of vouchers and the taking of credit, before the money sent has actually reached the claimants, is to my personal knowledge not an unusual preceeding on the part of disbursing officers, and was well known to the accounting officers of the Treasury for the whole five years of the bounty disbursements of the Freedman's Bureau. There was a desire on the part of myself and my chief disbursing officers to hasten as much as possible the payment of bounties by this method of filing vouchers. We promptly turned over money returned to us from subordinat officers, that the vouchers might be cancelled, or settled as justice demanded.

Whenever ground for investigation of such cases as those named was presented to me, the investigation was made, and whenever it appeared that fraud had been committed by anybody, I proceeded at once against the guilty parties themselves.

APPOLOGY OF SECRETARY OF WAR.

4. The next item in the Honorable Secretary's letter is an appology for not sooner bringing me to trial, based upon the alleged "incomplete and disordered condition of the records of the late Bureau," and the necessity of collateral examination in the Treasury Department. In answer, I respectfully refer to my former answer (p. 42, of the first exhibit) to the same charge made by Major Vincent in his letter of October 9, 1872. It was not *then* too late to bring me to trial. This "incompleteness" of records would have been entirely remedied by the passage of the bill proposed to Congress by the Committee on Freedmens' Affairs, which was substantially my recommendation, and was drawn by me just before leaving for the west under orders. The passage of the bill as drawn was prevented by the letter of the Honorable Secretary of War, dated May 22, 1872, the chairman of the Appropriation Committee recommending the omission of the section which provided an appropriation for settling all outstanding claims and for completing the records, and provided also that I have charge of the work. I desire to state my belief that my responsibility for such completion of records was relieved by this legislative action, and devolved that duty upon the Secretary of War, in just accordance with the recommendations of this letter above referred to.

STATUTE OF LIMITATION.

5. To show that I had no desire to avail myself of the "limitation of statute," I submit the following letter, dated December 17, 1873, addressed to the Military Committee of Congress, in answer to this letter of the Secretary of War, now under consideration.

WASHINGTON, D. C.,
December 17, 1873.

HON. JOHN COBURN,

*Chairman Committee on Military Affairs,
House of Representatives.*

SIR: In accordance with the request of yesterday, received from your committee, I appear to make answer, as preliminary to a formal rebutting of the charges in a letter of the Honorable Secretary of War, dated December 4, 1873, and referred to your committee. Permit me to state:

First. That I court the fullest possible examination into all the subjects therein named.

Second. Having never been averse to trial by any proper tribunal, civil or military, upon official charges with any shadow of foundation, I deprecate the statement of my accuser, that "a general court-martial became barred, in part under statute of limitations," and if it be legally possible to do so, I wish to waive all rights and privileges accorded me under such statute to the end that the "public benefit" may receive no detriment.

Third. In considering the alleged irregularities and violations of law in the conduct of the late Freedmen's Bureau, I am confident of my ability clearly to prove that, acting as Commissioner in an administrative capacity, I am neither morally nor legally responsible for either of the several counts set forth in the Secretary's letter, and therefore not personally or officially accountable for any portion of the sum which makes up the aggregate therein charged. Certainly it is against the usage of every department of the Government to hold me pecuniarily accountable for the defalcations of subordinate officers where no collusion whatever is claimed.

With this brief statement, I shall gladly submit to the examination and judgment of the committee the work of the late Freedmen's Bureau, or such portion of it as may be necessary, the manner of its performance and my own record, official and personal connected with it, with a view to a final, complete settlement of the questions at issue, and which have been so annoying to my friends, and such a prolific source of public scandal.

Very respectfully,

O. O. HOWARD,
Brig. General U. S. Army.

I submit also a letter written to the General Commanding the Army, one of similar import having been written to the President of the United States of the same date, which tends to show that I deprecated any bar to a full and thorough investigation, and incidentally gives what I believe to be in part the immediate occasion of the formal charges preferred against me on the 4th of the following December.

WASHINGTON, D. C., November 27, 1873.

General W. T. SHERMAN,
Commanding Army of the United States :

GENERAL : On account of the steady confidence you have reposed in me, I write the following to you ; I am constrained to take a step that I believe I ought to explain to you and to the officers of the Army affected by it. I wish to be assigned to Army duty wherever it shall seem best to you to select my place of assignment.

You have twice offered me this opportunity.

My reason for not promptly embracing the offer were two fold :—
1. I was anxious to complete the work of the Freedmen's Bureau, to which I had been assigned without any solicitation on my part, but which, of necessity, developed into enormous propositions, and which required time properly to close. 2. I was anxious that the University, which had grown up under my eye, and which I deemed all important as a part of the higher educational advantages, I had been instrumental in securing especially for those classes of our people whose interests were for a time so largely committed to my care, should be put upon a secure basis in all its breath of scope, before committing its presidency to a successor.

I have endeavored to give it an endowment worthy of the object.

Unexpected opposition, the usual misrepresentation of the motives of one engaged in such a work, and hinderances of a public and private nature have made this work slow and onerous. It is not yet done, but I am unable with my private income to continue it. I had intended to ask to be placed before a retiring board, in fact, I did so apply to the War Department. But I was sent to Arizona and New Mexico very soon thereafter, and was obliged to undertake duty equally arduous with any that I performed during the war ; on this I withdrew my application. I found myself as able to undergo fatigue and privation, and all the labor that pertains to field duty as at any previous time of my life. You will remember also that the loss of my arm never disabled me from the performance of any duty demanded of me as a general officer.

I have, however, often thought of retiring, hoping that my hard services during the war, and the much harder services required of me since the war, would be considered in my favor. But under present circumstances it is not prudent for me to take this step of asking to be retired.

While many who commanded a division only for a time have been retired with the rank of major general, I cannot lawfully be so retired, because I was wounded so early in the war, while a brigadier, commanding a brigade, and would, therefore, be obliged to retire as a brigadier.

This might seem to be ample, and would be doubtless but for the obligations I have been forced to incur in the work providentially given me to do.

I confess that weightier reasons affect me now than any I have have given to influence my return to army duty.

Bulletins affecting me unfavorably have gone broadcast. My integrity is officially acknowledged I admit, and I hold letters of high commendation, and further, my seven years of unremitting toil, anxiety and responsibility are known, and the good fruits are seen by those who care to see and acknowledge them.

Yet it is idle for me to try to conceal from myself the plain fact that there is a persistent effort to tarnish my record, and if not in official quarters the result is precisely the same.

All the books and papers of a large Bureau are transferred to other hands.

A lengthy examination is then instituted, and, whatever the results of this examination may be, from it grows public suspicion and accusation against me and the honorable officers who were associated with me.

Now all this I wish to face.

You have seen me in battle, and know how I can face death.

I shall face accusation with the same fearless spirit. I wish to go duty, to give all accusers ample time and opportunity to round out their charges, and if they see fit so to do, I wish to be tried by a court martial as the tribunal just suited to one of my history and rank.

Again, I have another reason for service :

Should we now have a war with Spain, to free more slaves from dire oppression and defend the honor of our flag, the President would surely give me the opportunity of service.

I do not wish to be shelved or crushed.

Is it not a good thing to endeavor to preserve, and not destroy, the fair fame of men who ardently love their country, and who have, in a series of successful battles, demonstrated that this love is no empty boast?

By the consideration of past service ; by my earnest loyalty to my country ; by my desire to preserve an unsullied record for my childrens' inspection, I ask for my proper place among the officers of the army.

I am not only conscious of integrity but of fidelity. My work was of necessity incomplete, but no wrong on the part of any officer or clerk was ever knowingly covered up by me, and I was as diligent as I could be in the pursuit of wrong-doers.

I shrink from no danger or trial or duty, but I deprecate insinuation and suspicion.

On public and personal grounds I ask your aid to restore me to the post of service and confidence that I know you to believe belong to me.

Very respectfully, yours,

O. O. HOWARD.
Brigadier General U. S. Army.

JUSTICE.

6. The next paragraph (page 2 of the charges, beginning "The Department of Justice,") explains the steps taken in referring the cases of complaint from bounty claimants to the Department of Justice for recovery. It appears to me that in this charge a judgment is already formed against the officers and agents of the late bureau. They are injured by this public announcement. Quite a different course is pursued by the Government where white soldiers have failed to receive their bounty from paymasters of the Army.

CHARACTER OF INFORMATION.

7. The next statement of the Secretary of War, that I was "promptly informed of missing records," is true; but the next, that I had been "promptly informed of the apparent Exhibits against me," is an important error. Before Major Vincent's letter of October 7, 1872, was brought out I was corresponded with quite fully upon the subjects therein contained, but was not shown the charges themselves till they appeared in the letter to Congress, or rather till they appeared in the *New York Tribune* two days in advance of the letter to Congress. Before the issuance of these charges I could not even surmise their nature. After the letter of the Attorney General, dated May 31, 1873, (see page 3, Secretary's charges,) was published in the newspapers, I sent a telegram from Poughkeepsie, N. Y., where I was at the time, to the Honorable Secretary of War, asking, in substance, for a full statement of all the charges against me, and the amounts of money for which I was held accountable, together with the names of the subordinates through whom this accountability was charged to me.

In reply I was told (see Major Vincent's letter, dated July 14, 1873,) that in *due time* I should be informed; but I was not furnished with information in any other way than what I could learn by way of inference from a continuous and formal correspondence, which bore the impress of suspicion and complaint, and not only afforded no clear and specific statement of the nature and extent of the accusation—whether they were against the Commissioner himself or against his subordinates, but on the contrary, constantly demanded other missing links of information, not otherwise attainable, which seem to have been regarded necessary in order to the completion of charges subsequently made against me. In fact I inferred in the outset, from the following letter of the Secretary, written after I had spoken to him of the poisonous breath of newspaper scandal, fostered by the unending bureau discussions of official character, (the sentiments of which letter have frequently been privately reiterated by him since the charges were sent to Congress,) that I was not myself under suspicion of wrong doing.

WAR DEPARTMENT,
WASHINGTON CITY, *June 29, 1872.*

General O. O. HOWARD, *United States Army:*

DEAR GENERAL: The act of Congress places the Freedmen's Bureau in charge of the War Department, and General Order No. 55 has been issued carrying the law into effect.

In making this change required by the law it gives me pleasure to bear witness to the zeal, energy, and integrity which have, in my opinion, characterized your management of the Bureau.

In the field, when I was your subordinate in the Army of the Tennessee, I observed the gallantry and ability which marked your conduct, from the day of the battle of Ezra Church until the end. Since I have been here I have had occasion at times to express my opinion as to your administration of the Bureau, and I do not hesitate to say that in my judgment its affairs have been conducted by you with honor and integrity that can not be questioned. It gives me pleasure to say this without solicitation from yourself or your friends.

I am, General, very truly, yours,

WM. W. BELKNAP.

IRREGULAR TRUST FUND.

Now we come to a specific charge that of \$121,000 not accounted for. (p. 2, heading 7.) Being named first out of its order, with unfavorable comments, I will consider it first. The amount of this fund, according to the accounts I have is overstated in the charge by \$1,378.81. The charge refers to the retained bounty or irregular State bounty fund. The following expression, viz: "in one item stated at upwards of \$121,000 not accounted for, it will be seen that accounts cannot be produced, and no attempt has been made to prove what has become of the money," presents a charge which I deny. The truth is that accounts have been produced, and no efforts could have been more active and more persistent than mine to show what has become of the money.

After my return from Arizona and the completion of my reports of work among the Indians, I set myself immediately to settle up my late Bureau matters, as best I could.

On January 8, 1873, being reminded by my aid-de-camp, Captain Sladen, that I had not closed this fund, and one other, I wrote a letter to Major Vincent, under date January 8, 1873, explaining the delay and stating that I had deposited the unexpended balance of the fund, with a list of those claimants not yet paid, in the Treasury of the United States. Soon after I was ordered, by communication from the War Department, dated January 24, 1873, to take the money from the Treasury and turn it over to Captain McMillan, the disbursing officer of the Secretary of War, as it was decided that the Secretary of War succeeded me in the care of this fund. I did not so interpret the law, but I obeyed the order, and turned over the money (\$1,628.59) as directed. There were, therefore,

when the charges were made, already in the hands of the War Department officials, first, this money, \$1,628.59, with a specific list of the men not yet paid; second, the two cash books that have been brought into Court; third, the large "Bounty Register," marked "retained bounty," which gives the name, regiment and company of each soldier, the date of muster, the date of payment, and through whom paid, with other information necessary to identification or test of payment; and fourth, the "Letters Sent" and "Letters Received," books of Major Coates, which he affirms contain the evidence of the receipt and acknowledgment of General Balloch's checks in payment. It is true that the receipts or vouchers which were first delivered by General Balloch to the Third Auditor, and ordered to be withdrawn because not pertaining to United States funds, and afterwards deposited with the Second Auditor with like result, have been lost, how I cannot explain. I think they were thrown into the masses of waste paper delivered to the paper makers, either during or just after the removal of the records from the old office to the new. It is the only reasonable explanation of the loss. I could have had no possible object in destroying them, and believed them as safe as other vouchers till I called for all books and papers for examination, that I might intelligently account to the Treasury for the unexpended balance.

No payments from this fund were made by me as disbursing officer, nor by Major Brown my successor, and General Balloch always said that he left the vouchers in his office at the Bureau when he was relieved, and has not seen them since. It appears to me he could hope to gain nothing by their disappearance. As soon as I found search for them in every direction to be unsuccessful, I began to probe the matter of payment. The different respectable firms and attorneys named in the records were applied to and furnished with copies of the lists of names, comparisons were carefully made and the attorneys have made affidavits to the fact of receiving the money upon proper powers of attorney and of having paid the claimant which by the books purported to have been paid by them. There were but twenty-one names (specifying by memoranda) of claimants whose claims were not thus covered by positive affidavits and General Balloch's last sworn statement and account current cover these remaining twenty-one.

The final statement of General Balloch I did not get into my possession until after these charges had been published. Some few of the minor items of account had not been furnished me previously with proper vouchers, and when I did receive the complete statement with explanations, believing, as I did, and still do, that my proper accountability is primarily to the claimants themselves, and to the Treasury for the unexpended balance, I have not thought it safe to forward the original accounts to the Secretary of War. Now the decision of the Second Comptroller and the instructions of the Secretary of the Treasury render my course very plain—it is to carry the account to the Second Auditor, satisfy him as to what the real balance is, and account to him for my disposition of it. I

will say that I visited Mr. Duren, General Balloch's book-keeper, accompanied by Captain Sladen, and tested General Balloch's statement concerning an error in the taking up of Captain James (the disbursing officer of North Carolina) rolls. Mr. Duren said that General Balloch pointed out to him the mistake soon after it occurred, and that what he said to me was just as he (Duren) understood it. Not one of the claimants marked paid has ever applied to me for his pay, and I am assured that but one has indirectly inquired at the War Department, and that his case cannot now be produced. In conclusion, I wish to say that I believe the fund has been faithfully disbursed; that there are now enough books, papers, and vouchers to account satisfactorily to any Court or other tribunal not unfriendly, for the entire fund, including the interest and premium and unexpended balance. (Letter to Second Auditor from General Howard, dated April 23, 1874, subsequently given in this statement.)

MISAPPLICATION OF FUNDS.

9. The next paragraph of the letter of the Secretary of War under consideration (pp. 2 and 3, heading 8) touches upon "misapplication of funds," claiming that "these irregularities and violations of law have had much to do with the confusion of records, their defective condition, and the almost entire suspension of work, &c."

This inference is not correct. It will be remembered that the several items of appropriation are not construed to mean several appropriations, there being really but *one*. When a disbursing officer overdraws one item and underdraws another item there is no misapplication or violation of law; and there has not been, to my knowledge, a single illegal expenditure, expenditure of any kind, not contemplated in the total appropriation—not even an over-drawing on any items of the appropriation. It should not be forgotten that the deficiency appropriation of 1872, set apart \$40,000 for schools and asylums, and this implies a fair proportion of clerks and messengers to expend it. The S. C. school fund, the school fund proper, and Freedmen's fund were not entirely exhausted in the spring of 1872, and were available for school purposes under the law; so that there was no misapplication of funds in this direction of schools. For the want of funds, occasioned by a re-appropriation by Congress of money already devoted, and promised, by me as commissioner, to schools, to the extent of \$37,500, and a cutting down of \$20,000 of my school estimate, I was obliged to cut off twenty per cent. of the amounts which several worthy institutions were depending upon. It was hard to do this, yet it was done to avoid any, even, constructive misapplication of funds. The remainder of the \$169,363.17 not under the item "misapplication" purports to have been paid by overdrawing the Treasury account, or to be drawn from bounty money, and afterward re-imbursed from the deficiency and the regular appropriations of 1872. If it were so the disbursing officer took his own risk without consulting

me, gave his own security, and made the re-imbursement. When appropriations are unexpectedly and unaccountably delayed in Congress, it is sometimes a question as to what is right—whether to discharge your force and stop necessary work, permit the employes and their families to suffer—or endeavor to raise funds for temporary use, until the difficulty is removed. This the disbursing officer seems to have done, taking the entire responsibility upon himself. In this connection there is another alleged violation of law made out in the papers connected with this charge 8, viz: A violation of the law of July 12, 1870, paying accounts in the wrong year by the disbursing officer. The answer is that the explanation of the necessity under which he made these payments was satisfactory to the accounting officers of the Treasury, and the accounts were by them allowed.

The ensuing clause in the charges in order states: “The responsibility and accountability attaching to the late Commissioner, so far as now developed, amounts to upward of \$278,573.66.

The responsibility attaching to me as Commissioner I have ever regarded as *first, administrative only*, until I actually commenced to disburse money, then it became *that of a disbursing officer*. As to the *first* I have given to my work all my faculties, and claim unreservedly to have always exercised “due diligence” in the performance of the duty devolved upon me. As to the *second, the Disbursing Responsibility*. When I began to disburse money, though not so required by the law of March 29, 1867, I gave bonds to the Government for the faithful fulfillment of the trust, and the accounts occurring during the period of my own disbursement have been settled and closed. See the letters of the Second and Third Auditors dated respectively, January 8th and January 9th, 1874.

The accountability cannot then, I think, be shown to be \$278,573.66, nor any part of that sum, unless it can be shown that some law puts the accountability technically upon me. I never so construed even the joint resolution of March 29, 1867—it was not so intended by those who framed the original bill; it was never so interpreted to me by the Second Comptroller. Whatever be the technical ruling, it will be necessary to subtract the \$121,000 faithfully disbursed, plus the \$109,363.17, which is not even claimed to be lost to the Treasury. This subtraction reduces my alleged accountability to \$48,210.40.

COMPLAINTS OF NON-PAYMENT.

(10.) This review of the Secretary's letter brings me to heading, 1, viz., “claimed by colored claimants, who allege that they have not been paid their pay and bounty, although the records of the Treasury Department show settlement of the claims, and vouchers have been filed by the late Bureau as evidence of payment, \$33,888.39.” Of this amount there are but seven cases that belong to my own period of disbursement. I have the most positive evi-

dence that I sent the money for the payment of these claimants, and if, in any case, the money had come back to the Bureau, I should at once have been informed and turned it over to my successor with full explanation. Major J. M. Brown had two cases which he assumes and explains, and the rest of the cases making up the \$33,888.39 General Balloch was to pay.

He has sworn to the fact that he sent the money in good faith for every one of them.

MANDEVILLE DEFICIT.

11. Ten cases of St. Clair Mandeville are embraced in the amount. This fact will cover in the neighborhood of \$2,000, an amount which is necessarily twice charged. Again, it is very probable that the United States Court will recover against the bondsmen of Mandeville the whole \$8,503.29. The bond \$10,000 running to me in my capacity as Commissioner of a Bureau of the United States does not give the money to me. I do not claim it. The United States district attorney is prosecuting the suit for, and in behalf of, the United States. Should the Government fail in this suit it will be because it cannot be proven that St. Clair Mandeville was a defaulter at all nor liable. Surely I cannot then be held accountable.

O. C. FRENCH'S DEFICIT.

12. The case of O.C.French is still stronger,(see the third heading.) The bond runs directly to the United States. Upwards of \$5,000, as in evidence, have been already recovered or secured, and my successors, through the Department of Justice are pushing the suit against O. C. French. The Government can hardly fail to get the remainder. For me the case stands in this way: Major O. C French was a volunteer officer of good record, recommended in unqualified terms by General Gillem, the assistant commissioner for Mississippi. I required a bond of \$10,000, which he gave to the United States. His appointment was given by direction of the Secretary of War. In my absence on other duty, General Whittlesey, acting for me, reports French's deficit to the Secretary of War. He directs General Whittlesey to proceed against him. This is done by a formal report and suit; the new Freedmen's branch continues the suit; but charges me with any balance not recovered. Precisely the same reasoning that would hold me accountable will hold the Secretary of War accountable as my successor, under the law closing the Bureau, for not *completing* the recovery of the money; the whole case, bond and all, having been received and prosecuted by him. O. C. French and his bondsmen, and not myself or the Secretary of War, are accountable for this money.

RUNKLE DEFICIT.

13. The fourth heading need not be mentioned, for the money was stopped against the pay of Major B. P. Runkle, and the Secre-

tary of War can order it turned over to Major McMillan, his disbursing officer, if he so desires. I have no responsibility here.

BALLOCH'S PRIVATE LOAN TO RUNKLE.

14. The next heading, 5, "Acknowledged by George W. Balloch to have been paid to B. P. Runkle," to reimburse the latter for mistakes made by his agents in paying bounties to the wrong parties, "\$1,331." The \$1,331 appear now to have been a private loan of General Balloch. As I did not endorse Major Runkle's note, I am surely not accountable for the money. I never had any knowledge whatever of the transaction.

With reference to the appointment of Major B. P. Runkle, I had the best kind of recommendations of him by several prominent men, such as Hon. Wm. Lawrence, M. C., and General Robert C. Schenck, U. S. Minister to England, and others. His service-record was excellent. He was an officer of the Army, and maintained a continuous good reputation at Memphis, Tennessee, in South Carolina, and for some time in Kentucky. There were complaints against him, as against almost any man who went South in the Freedmen's Bureau. I did not neglect to investigate any valid complaints, nor to report the facts as I found them. The court martial fined Major Runkle \$7,000. This amount would, I believe, more than satisfy the Kentucky proportion of the 174 cases for which he was held accountable. (Upon what hypothesis could this fine be remitted and afterward the deficiency, by this means continued, be placed upon me?)

PARTIAL SUMMARY.

15. It is plain to me that these several amounts—the \$33,888.39, confessedly overstated by ten cases, made up of complaints, many of them very informal, and for all of which my disbursing officers and myself sent the money for payment in full, and in good faith should be deducted from my alleged accountability; also the \$8,503.89 and the \$3,814.54, now overstated, both being in process of settlement by a court of law; also the \$673.24 already paid, and the \$1,331.93, a personal loan of General Balloch to Major Runkle, making in all a sum of \$48,210.44. This cancels the entire amount formally charged against me.

BOND INVESTMENT AND INTEREST.

16. But there remains heading 6—"Due by the late Bureau in consequence of illegal double payments and certain accrued interest, several thousand dollars." The interest here referred to has all been taken up under the "Refugees and Freedmen's Fund," according to the act of June 15, 1866. I will explain my own process of reasoning, during my administration, with reference to the interest of the trust funds the officers of the Bureau had in charge. That in the absence of specific statute I should have felt obliged to

give the entire increase to those claimants for whose benefit I held the trust; but this specific act just named directed me to take up all moneys derived from any miscellaneous source whatever raised for the benefit of Refugees and Freedmen, to the account of the fund established by this law. This I regarded better than to cover it into the Treasury, for which there could be no valid excuse. The accounting officers of the Treasury agreed with me in this interpretation of the statute. So did General Belknap, the Secretary of War, October 13, 1871, expressing his entire satisfaction to me in a personal interview, which I took the pains to note and record. —(See order and memoranda.)

[*Extract from S. O., No. 151, Freedman's Bureau, Oct. 13, 1871.*]

* * * "In accordance with act of Congress providing for the settlement of accounts of certain public officers, approved January 15, 1866, General George W. Balloch, late disbursing officer is hereby authorized to take up all moneys in excess of the cost of the United States securities as provided for in said acts, and to account for the same to the Treasury of the United States.

"O. O. HOWARD,
"Brig. Gen. U. S. A. Commissioner."

ENDORSEMENTS ON THE ABOVE.

"Submitted to Chief Clerk of the Treasury, who commended the order and the manner of using the funds referred to. O. O. Howard, Commissioner, &c., October 14, 1871, Washington, D. C."

"Also to Secretary of War, who expressed his satisfaction. O. O. Howard, Commissioner, &c., October 14, 1871, Washington, D. C."

"Also to the Second Comptroller, who pronounced it correct, and to the Cashier of the Treasury who advised me to settle past accounts at my office, as far as funds are concerned and deposite the balance in the United States Treasury. O. O. Howard, Commissioner, &c., October 15."

"A little more than a month later, by a letter dated December 6, 1871. (see reference to it, page 9, of Exhibit B.) the Secretary having changed his mind, ordered me to pay the interest into the Treasury as a "miscellaneous receipt." It was then impossible to obey the later order literally, for the money had been already placed beyond recall, and my action was in precise accordance with "orders, law and authority."

In all my correspondence, before the charges were made, with the Secretary of War with reference to interest on the bonds, I had in mind the last investment, and believed that every dollar of it had been satisfactorily accounted for. I simply deposited what came into my hands, and forwarded Gen. Balloch's account current, which explained itself, being a very short account, the main expenditure of which was repayment of the cases of bounty paid by error to the wrong parties. Gen. Balloch seems to have supposed that by render-

ing this account to me he had done all that was necessary, and the same was true with the other amount of \$19,446.57. When we were sent to the the Second Comptroller by a letter from the Secretary of War, to explain the large discrepancies of statement, (in part second of the charges of the Secretary of War,) I spoke to the Second Comptroller respecting this interest account, and asked him to order Gen. Balloch to render it somewhere. He said, "I cannot order it, but I advise him to render it." The next day, or very soon after this, Gen. Balloch took the \$19,446.57 account to the Third Auditor and had it settled. On the call of the Secretary of the Treasury he has now taken the account current, abstract and vouchers of the other interest account, viz, \$2,222.27 to the same auditor. The delays in the final settlement of these accounts are not in any way the result of any design to do wrong or conceal anything on my part. I shall get them finally disposed of just as quickly as I can. My late officers and clerks are almost all engaged in other business, so that I can command but a small portion of their time.

MR. STANTON'S DECISION.

17. I believe I have answered everything that occurs in the Secretary's letter, so far as a statement of the facts is concerned. The exposition of, and answer to, the points of law involved, and a review of the testimony, I leave to my attorney. I did not give the \$50,000 bond mentioned in the Bureau act of 1865, because I believed, and Mr. Stanton, the Secretary of War, when I was appointed, decided that the law did not require it of an Army officer detailed.

18. THE LARGE DISCREPANCIES

In Treasury statements are fully explained in the letter of General Balloch, dated December 29, 1873; the letter of Mr. S. A. Terry, money clerk, dated December 26, 1873; the report of the commission appointed by me, consisting of my two aids-de-camp, and the letter and endorsement of Hon. J. M. Brodhead, Second Comptroller. I visited the Attorney General of the United States, during the month of January, after the letter of the Secretary of War, of January 5, 1874, (part 2,) had been received in Congress and published to the country, with reference to the bounty cases referred to his Department for prosecution.

He told me that the large discrepancy of statement of General Balloch in this letter of the Secretary of War, had been referred to him. I understood him to say there was nothing in the subject that he could act upon or prosecute, for if he (Balloch) had settled his accounts at the Treasury, as required by law, it was all that could be done.

"THE DUPLICATED ACCOUNT."

19. One subject, though coming to notice after the ordering of this Court deserves special remark from me, and that is the \$16,652.57 voucher. This voucher rendered in support of the regular appro-

priation account, dated March 24, 1871, put into the Treasury at the close of that month of March is really the error or the fraud.

The other, the duplicate is true and right intrinsically in every respect. That first one named was put in with a large abstract and escaped my notice and recollection altogether. The latter which is correct, I remember to have seen with the other vouchers as late as January or February, 1872, just before I went to Arizona. I thought the account had not gone into the Treasury, and so approved the voucher when the interest account was rendered, but just as soon as I had an intimation from General Balloch, that he had discovered the error, I wrote to the Secretary of War, (see my letter to him dated February 17, 1874, I believe now that I ought to have asked that the March 24th voucher be cancelled, instead of the other for that date was certainly wrong, put in so by a clerk, either by intention or by accident, I am having this matter very thoroughly looked into, and believe we shall be able to bring the guilty parties, if there are such, to justice. I cannot accuse myself of even a slight neglect in this matter, for I never signed an abstract without giving all the attention to it, other pressing duties would allow—I could not give that personal inspection to each voucher, that an auditing clerk can do, and was obliged to rely very much upon certain confidential clerks that I trusted, such as Mr. Terry, Mr. Drew, Mr. Cook, and Mr. Blue who have testified in this case.

STATEMENTS WITH THE CHARGES—ST. CLAIR MANDEVILLE.

20. I will now extend my statement to such portions of the documents accompanying the charges of the Secretary of War as may seem to require explanation.

Page 8. Remark under *St. Clair Mandeville* :

“A letter from the Secretary of War to the late Commissioner, dated March 10, 1873, in regard to this defalcation, has not been replied to. That letter called for a full report, with a list of the defrauded claimants, and invited attention to the fact that no papers showing the details of the matter had been transferred to the Adjutant General of the Army.” The letter was subsequently *replied* to, as *completely* as the case admitted of, just as soon as a report in the case could be had; many papers are still held by the New Orleans United States Court. My aid, Captain Sladen, immediately following the receipt of the letter referred to by my direction, drew from the books of the Freedmen’s branch, date of all the reports and correspondence. The subsequent discovery of the Mandeville records, and examination by Mr. J. S. Moodey, clerk of the Freedmen’s branch, show the fact that papers showing the details of the matter *were* transferred to the Adjutant General of the Army. These records were delayed en-route, being detained quite a length of time at the freight depot of the Baltimore and Ohio railroad in this city. I informed Major Vincent as soon as I received notice of the fact.

21. Page 9. Under the second heading, remarks: *We have—*

"The late Bureau has not complied with that order," meaning an order of the Secretary of the Treasury concerning General Balloch's accounts. This assertion is answered by a denial, so far as I myself am concerned, I have obeyed every order of the Secretary of the Treasury as promptly as I could with the clerical help at my command, and now the reports of my subordinates and myself have covered the entire requirements of the order in question.

RELIABILITY OF RECORDS.

22. Page 11, *Major Vincent's letter*, this sentence is used, "The investigation, however, has disclosed the fact that the records referred to are incorrect, and therefore not liable." These words give a sweeping charge which my own inspections and tests do not justify. I have discovered, at times, some errors, and reported them, or had them rectified, but a close scrutiny shows the "cash books," and other records, now in *fair condition* and *true*, not quite completed, owing to sudden closing of the bureau and transfer to new hands, and the discharge of clerks, but certainly bearing, to my knowledge, no intentional wrong entry.

FAILURE OF APPROPRIATION AND REAPPROPRIATION.

23. Page 13, "This condition of affairs did not result, as stated by the Commissioner in his letter above referred to, "by failure of appropriation," but, on the contrary from a misapplication in part of ample appropriations made by Congress for the conduct of the work in question."

Permit me to state that \$50,000 of my Bureau appropriation was by law transferred to the Agricultural Bureau; that \$37,500 was re-appropriated from my fund to Lincoln University, Pennsylvania and Wilberforce University, Ohio; that my estimate for fulfillment of promises conditionally made were cut down \$20,000; that \$100,000 was cut off from my estimate for 1871, without a corresponding diminution of duties and requirements of law; that, finally, my last estimate for \$75,000 to pay all outstanding legal claims, and for putting the records in order, was stricken from the bill for closing the Bureau. Further, an unanticipated decision of the Court of Claims took from my appropriation \$10,000 to pay retained officers certain allowances in excess of the amount of their salary already paid. The total amount, which I had good reason to have expected for Bureau use, but really taken from it, was \$292,500. Had one-third part of this sum remained as I expected, or been granted by appropriations, as estimated, none of the disabilities named by Major Vincent, at the top of page 13, would have existed. The facts show plainly that I did not make a "misstatement," as here charged.

On page 54, Major Vincent's second report, sent to Congress February 28, 1873, notice the following :

"Under General Orders No. 55, of 1872, from the War Department, that fund, the "retained bounty fund," should have been transferred or accounted for the Adjutant General's Office."

My difficulty here was to determine how to act *according to the provisions* of the law, which I construed as requiring me to account to the Treasury for the unexpended balance, and at the same time *according to the General Orders* of the War Department, which I do not believe applied to this specified fund. I had no intention of disobeying the General Order No. 55, of 1872, and do not think I have done so. The final decision of the Secretary of the Treasury relieves me from this charge and directs my accountability. The letter is as follow:

24. FINAL DISPOSITION OF IRREGULAR FUND ACCOUNT.

TREASURY DEPARTMENT.

Washington, D. C., April 20, 1874.

Sir: In reply to yours of the 14th, instant the Second Auditor is suggested as the proper Auditor to whom you should render your accounts of the irregular fund, under the act of March 2, 1867.

I have the honor to be, very respectfully, your obedient servant,

WM. A. RICHARDSON,

Secretary.

This is the first time any of the Treasury officials have ever apprised me of the place where I should render my account pertaining to this fund.

The following letter indicates what will be the final direction of this account:

WASHINGTON, D. C.

April 4, 1874.

Hon. E. B. FRENCH, *Second Auditor U. S. Treasury.*

Sir: I have the honor to transmit my accounts of the unexpended balance of the irregular fund according to the act of March 2, 1867.

I send also accompanying papers to enable you to have an intelligent understanding of the origin and true amount of said unexpended balance, viz:

- 1st. The account current of General Balloch.
- 2nd. Sworn statement of explanation.
- 3rd. Rolls of soldiers, with attorneys' affidavits.
- 4th. Letters of correspondence with the Treasury and War Departments.

5th. Prior explanation of the General Balloch with vouchers.

6th. My letter to the Secretary of the Treasury, and his reply.

For reference I would name the large bounty record book of this irregular fund now in possession of the Court of Inquiry in my

case, and also two large cash books containing a short account of receipts and expenditures when the fund first came into the disbursing officer's possession.

Very respectfully, your obedient servant,

O. O. HOWARD,

Brig. Gen. U. S. A.

I am confident of a complete and final settlement of this account as soon as the Second Auditor can give attention to it.

My object has been rather to supplement, in this statement, the testimony taken before the Court than to give a full account of the transaction involved in this Inquiry; I am, however, conscious of incompleteness because of the great number of items contained in the charges of the Hon. Secretary of War, and because of a desire not to elaborate too much, and shall be glad to answer frankly and fully any questions the Court may be pleased to put.

The Judge Advocate, near the commencement of the investigation, referred to my numerous counsel. Of the four gentlemen named only one has served continuously; my desire was merely to provide against being left without counsel at any time by reason of the pre-engagements of the gentlemen who were to assist me.

This Court of Inquiry is about to pass upon that which is dearer than life to me, to my family and friends—my reputation and my honor as a man and a soldier.

Permit me in closing to express my great satisfaction in the fairness and thoroughness of your patient Inquiry, and my unspeakable relief in the feeling, that whatever your findings may be, the burden of anxious suspense is about to be removed by the substitution of facts, in the place of suspicion and accusation.

I have the honor to be, gentlemen, very respectfully, your obedient servant,

O. O. HOWARD,

Brig. Gen. U. S. A.

GENERAL ORDERS NO. 75.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, July 3, 1874.

The following order is promulgated by direction of the President of the United States:—

I. The Special Court of Inquiry, of which General William T. Sherman, United States Army, is President, instituted by Special Orders No. 35, February 16, 1874, and Special Orders No. 51, March 9, 1874, from this office, "to fully investigate all the charges against Brigadier General *O. O. Howard*, contained in the communications of the Secretary of War to the Speaker of the House of Representatives, of dates December 4, 1873, and the 5th day of January, 1874, and to report their opinion as well upon moral as upon technical and legal responsibility for such offenses, if any, as may be discovered," has reported as follows:

The SPECIAL COURT OF INQUIRY, after a careful and mature consideration of the evidence adduced before it, report as follows, under the requirements of the letter of the President of April 22, 1874, and of the joint resolution of February 13, 1874:

FACTS.

The letters of the Secretary of War of date December 4, 1873, and of January 5, 1874, with the accompanying documents, place under distinct heads the specific matters which this court was required to examine, but before proceeding to the consideration of the letter of the Secretary of War of January 5, 1874, it seemed best to consider in their order the eight specific statements set forth in the letter of December 4, 1873.

It is proper to preface the statement of facts by a somewhat detailed narrative of the manner of doing business in the Bureau of Refugees, Freedmen, and Abandoned Lands, as far as it refers to—

PAYMENT OF BOUNTIES UNDER THE JOINT RESOLUTION OF MARCH 29, 1867.

It appears that in the early part of 1867 the accounting officers of the Treasury Department became uneasy at the numerous frauds being perpetrated on colored claimants for bounties, under the then existing acts of Congress, and called General Howard into consultation concerning the payment of these bounties through the agency of the Freedmen's Bureau.

After advising with General Howard, these officers of the Treasury Department drew up a bill to effect this object, and submitted it to Congress, and upon their recommendation the joint resolution of March 29, 1867, somewhat differing from the bill suggested by them, was passed by Congress. This law devolved upon the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands the payment of bounties to colored soldiers, sailors, and marines. It in terms made General Howard, as Commissioner, responsible for the "safe-keeping and disbursements" of funds appropriated for this purpose, but provided in the second section that he should be assisted in these payments by the officers and agents of his Bureau. He accordingly set to work to pay claimants, through the officers and agents of the Bureau, in accordance with this provision, in the following manner:

General George W. Balloch, the chief disbursing officer of the Bureau, was the principal agent for these payments, and was so recognized and treated, both by the War and Treasury Departments. A Treasury certificate for the amount due each legal claimant was made out in the name of such claimant and sent by the Second Auditor of the Treasury to General Howard, who placed these certificates in the hands of General Balloch, who drew the money upon them from the paymaster. Vouchers, duly prepared for the signature of the claimants, were then sent to the agents of the Bureau in different parts of the country, with a list of the claimants for whom the vouchers were prepared. The agents hunted up the claimants and identified them through their descriptive lists, by personal examination, and in any other sufficient manner; procured their signatures to the vouchers for the amount due each, and returned the vouchers to General Balloch, who, upon their receipt, transmitted lists of those from whom signed vouchers had been received, with a check for the gross amount, to the agent by whom the signed vouchers had been sent back. It then became the duty of the agents again to look up the claimants, and put into the hands of each, *in currency*, the amount due him. As soon as his check left his hands, General Balloch filed in the Treasury, to his credit, the vouchers covered by it. This was the general rule, though in isolated cases, remote from the station of any agent, the money, in rare instances, was sent to some officer of the Army, or some one known to General Balloch, to be handed to the claimant. In some cases the money was paid in this manner through revenue officers, cashiers of freedmen banks, or through postmasters, but only, as appears, when there was no agent in the vicinity.

In every case, except the isolated cases above mentioned, involving small payments to one or two persons, and where Regular Army officers were employed, the agents were bonded officers, their bonds covering any liabilities they would have power to incur.

By this mode of conducting business it resulted that vouchers were filed in the Treasury, and credit taken therefor, before the money actually reached the claimant, and in some cases, not nume-

rous when compared with the great number of claimants paid, it happened that a claimant could not be found and his money was returned to General Balloch, while at the same time his receipt for the money was already in the Treasury and credited to General Balloch. Some cases of this kind were unavoidable. In this manner payments of bounties to colored soldiers, sailors, and marines were made from 1867 to 1872, and it is the concurrent testimony of the Treasury officials that frauds and complaints of non-payments very greatly decreased, and that the system was far better and more efficient than any pursued before, and still pursued in the same kind of payments to white soldiers. In proportion to numbers, notwithstanding the much greater difficulty of identification of colored claimants, the losses which fell upon claimants, by frauds or otherwise, in the payments to colored soldiers by the Bureau, and to white soldiers through the Pay Department, were in favor of the former.

It is now proper to take up, in order, the charges under the eight headings in the letter of December 4, 1873.

Heading 1. "Claimed by colored claimants, who allege that they have not been paid their pay and bounty, although the records of the Treasury Department show settlement of their claims and vouchers have been filed by the late Bureau as evidence of payment of \$33,888.39."

This court did not consider it necessary to summon before it the one hundred and seventy-four claimants referred to, to ascertain whether or not they had actually received the amounts claimed to be due them, since even if their allegations could be fully established it would not necessarily follow that fraud or wrong-doing had been committed. If it could be shown that the amounts thus due had actually been sent to make these payments, and had thus passed from the possession of General Howard and his chief disbursing officer, and such portion, if any, as had been returned, because the claimants for it could not be found, had been then accounted for properly, the responsibility of General Howard or his chief disbursing officer would be discharged.

To this investigation, therefore, the court proceeded with the following results:

Of these one hundred and seventy-four claimants who allege that they have not been paid, eighty were said to have been paid through the agents in Kentucky. Major B. P. Runkle, of the Army, was the principal payer, without giving bonds as other officers of the Army on the same duty are now.

An investigation made by General Howard and by a board of officers instituted by him first exposed wrong-doing in this connection, and on the Commissioner's recommendation Runkle was tried by a general court-martial, and on conviction was cashiered, heavily fined, and sentenced to imprisonment.

The fine and imprisonment were afterward remitted by the President. There seem to be only seven of the one hundred and seventy-four claimants who were paid by General Howard himself. He has established, in all these cases, that the money was sent for their payment in the usual manner heretofore explained, and such as has been received back, because of the impracticability of finding claimants, has been duly accounted for. In all the other cases the same fact is found, except in a few which can be readily explained. There is no evidence of anything improper in this transaction, and the Treasury officials testify that all these cases can be settled in the usual manner by them, and were actually in process of settlement at the time when this court met.

Heading 2. "Defalcation of St. Clair Mandeville, \$8,503.29."

Mandeville was appointed agent of the Freedmen's Bureau in 1867, on the recommendation of General Joseph A. Mower, commanding the Fifth Military District. This recommendation was couched in very strong language and bore the highest testimony to the character and fitness of Mandeville. He gave bonds for \$10,000 to "General Howard, Commissioner of the Freedmen's Bureau, and his successors in office."

On the 1st November, 1869, Mandeville died suddenly of cholera, following an attack of yellow fever. His clerk died two days before, of yellow fever. General Mower immediately took charge of his office. There was found in his safe about \$9,000. This was supposed to be public money, and was taken charge of as such by officers detailed by General Mower, together with all his papers. Shortly afterward Mr. Sauvinet was appointed agent in Mandeville's place, and was directed to make a full examination of the books and records. He did so, and gave as his opinion from such examination of books that a number of claimants, whose claims amounted to \$17,000, had not been paid, although the books indicated that they had. There seems to be no evidence whatever that these persons were not paid, and it appears that only ten or twelve even stated that they had not been. (Beeman, p. 150.) Nevertheless, the \$9,000 found in Mandeville's safe were used in making payments, but, so far as can be ascertained, not to those who, according to Mr. Sauvinet, had not been paid.

The widow of Mandeville maintains that the money found in the safe was Mandeville's own property. Suit was brought by order of General Howard, and subsequently assumed by the Department of Justice, against the sureties on his bond, and is now in process of trial. It is not by any means established that Mandeville was a defaulter, or that any money was lost to the Government or the claimants by his acts; but the issue of the suit against his sureties will determine the question, and make good to the United States the alleged defalcation if it should be found to have occurred. Ten of the cases, covering about \$2,000, used in making up the

amount of Maudeville's alleged defalcation, are also embraced in the list of the one hundred and seventy-four cases above referred to, so that the sum of \$2,000 has thus been twice used in making up the amount for which General Howard is held responsible.

Heading 3. "Defalcation of O. C. French reduced to \$3,814.54."

French was appointed agent of the Freedmen's Bureau at Natchez, Miss., on the recommendation of General A. C. Gillem, commanding Fourth Military District. Part of the money for which he has failed to account has been paid by one of the sureties on his bond and by himself. Judgment has been obtained against French and his other sureties, with little question that the whole amount will be recovered.

Heading 4. "Defalcation of Maj. B. P. Runkle, \$673.24."

Runkle was an officer of the Army, regularly detailed by the Secretary of War as agent of the Freedmen's Bureau.

He was guilty of wrong-doing in the performance of his duty; was so reported by General Howard; was arraigned and tried therefor and dismissed from the service. His pay was stopped some time before to make good his accountability to the Treasury for this special sum, \$673.24, and if any money has been lost through him it is not due to the negligence or want of action of "General Howard."

Heading 5. "Acknowledged by George W. Balloch to have been paid to 'Runkle' to reimburse the latter for mistakes, &c., \$1,331.03."

It is shown by the testimony of "General Balloch," and nowhere contradicted, that he lent this sum out of his own private means to "Runkle" to pay up what had been erroneously paid by "Runkle," and that this sum is a personal debt owed to him by "Runkle," and in no sense an amount due or charged to the United States.

Heading 6. "Due by the late Bureau for illegal double payments and certain accrued interest, several thousand dollars."

This charge is very vaguely stated. "General Balloch," in his letters to "General Howard," dated December 27, 1871, and January 3, 1874, submits accounts for certain interest arising on the investment of sums of \$334,875 and of \$279,375, in United States bonds, in which appear the items of \$1,338.56, and \$1,496.25 for reimbursement for double payment of bounties. That is to pay to the rightful claimant money which had been paid erroneously, but in good faith, to wrong parties. These items are admitted by "Balloch" himself. Their legality or propriety may be matter of question. According to the testimony of the Second Auditor of the Treasury, a payment made in good faith, although made to wrong parties through deception practiced on the disbursing officer,

would, as has hitherto been the case, have been passed to the credit of the disbursing officer on satisfactory proof that such deception had been practiced, and that the payer had not been careless or negligent in taking the proper precautions.

These second payments by "General Balloch" could have been lawfully made from the regular bounty-fund. The first payment being made to wrong parties did not discharge the obligation to pay the right claimants, and for credit for the wrong payment General Balloch should have looked to the practice stated by the Second Auditor

It could now, however, be easily settled by the Treasury Department in accordance with the practice testified to by the Second Auditor, and stated heretofore in this connection.

Heading 7. "Irregular bounty-fund, \$121,000."

The history of this irregular bounty-fund is as follows: During the war some of the States sent money to officers serving in the South to buy substitutes to fill up their quota under the draft from among the colored people. A portion of the money thus sent was retained in the hands of officers who had been superintendents of negro affairs by an order, "No. 90," made by "General B. F. Butler," commanding Department of "Virginia and North Carolina," dated August 4, 1864, and was by the President's order of June 2, 1865, turned over to the disbursing officers of the Bureau of Refugees, Freedmen, and Abandoned Lands. Shortly after the organization of the Bureau of Refugees, Freedmen, and Abandoned Lands, in 1865, when these two officers became agents of the Bureau, "General Howard," ascertaining that the money thus held by "General Butler's" order was still in their hands, instructed them to turn it over to "General George W. Balloch," chief disbursing officer of the Bureau. The two officers were "Col. Orlando Brown," assistant commissioner for the State of Virginia, and "Capt. Horace James," assistant quartermaster of volunteers. The first turned over to him \$84,334.81; the latter, \$21,584.17; total, \$105,918.98. "Captain James" was authorized to expend \$7,491.43 of the \$29,075.60 originally in his hands for the purpose mentioned in "paragraph 2," order "No. 90," above referred to. Both of these officers sent with the money a list of persons to whom it was due. The amount due on "Brown's" list was \$83,320.84; on James's list, \$29,075.60; total, \$112,396.44. Total amount of money received by "Balloch" from these officers, \$105,918.98, being a deficit in amount needed to pay, according to the lists, of \$6,477.46. This deficit was made up by "Balloch" from interest on the United States bonds, in which all but a very small fraction of the amount turned over by "Brown" had been invested viz: \$84,300. "On March 2, 1867," an act of Congress was passed (see act) constituting the Commissioner of the Freedmen's Bureau, the trustees of this fund, and authorizing him to invest it for the sole benefit of the soldiers themselves or their rightful heirs, &c.,

in United States bonds. The only provision of that law or any other on the subject prescribing the accountability for the expenditure of this fund, directed that on the discontinuance of the Bureau of Refugees, Freedmen and Abandoned Lands, the Commissioner should account for the balance left in his hands to the Treasury of the United States. "General Balloch," into whose hands as chief disbursing officer of the Bureau this money came, believed that he must render an account of it to the Treasury precisely in the same manner that all other money in his hands was accounted for, and, accordingly, did render accounts—abstract and vouchers with his other accounts—for disbursements from January 1, 1866, to May, 1868, to the Third Auditor. He was informed positively by the Third Auditor that this "irregular fund" was in no sense public money, nor classed under any head known to the Treasury Department, and could not be audited by that office. The accounts were then transferred to the Second Auditor's Office, when the same decision was rendered and confirmed by the Second Comptroller. (See evidence of "Balloch," "Vinson," "Rutherford," and "French.") The Second Auditor declined to audit the accounts for the same reason given by the Third Auditor. It seems, however, from the evidence of Mr. Vinson, clerk Third Auditor's Office, that he did examine the accounts and vouchers, rendered to his office on this fund, covering a period of more than two years, and that they were regular accounts, sustained by proper vouchers, and in all respects such accounts as would have been allowed if the office had had authority to pass upon them. Finally, in 1870, (May 25,) these accounts and vouchers were all taken away from the Treasury by "General Balloch," by an order from some official. Upon referring the matter to the Second Comptroller, he affirmed the decision of the Auditors, but remarked that "Balloch" had better continue to take vouchers in the regular way for the disbursement of this fund, and when the Bureau should be discontinued the second section of the act of March 2, 1867, "directed the Commissioner what to do." In his testimony the Second Comptroller confirms this statement, and gives the opinion that the Secretary of the Treasury is the person to whom the trustee, under the act, is to account for his trust.

In compliance with a request from this court, "General Balloch" has made up an account of his expenditures of this fund from the "irregular-bounty book," the "vouchers" which he had been ordered to withdraw from the Treasury, and which he left in the office of the chief disbursing officer, having been lost or mislaid after he was relieved from that duty.

The inference contained in Exhibit "B," page 19, that General Balloch concealed or destroyed these vouchers to prevent discovery of frauds and irregularities is not sustained, even by implication, by any testimony that has been given. There has been given no evidence whatever to discredit "Balloch's" statement that the accounts and vouchers for these expenditures were left in

his office when he was relieved, and afterwards mislaid or destroyed without his knowledge or consent. It is presumed that this whole account will be now rendered to the Second Auditor, who has been designated by the Secretary of the Treasury as the proper person to receive and audit these accounts.

Heading 8. "Misapplication of public funds and filing vouchers with the accounts covering a certain month when payments were made in a prior month, viz:

Misapplication.....	\$36,314 77
Vouchers covering time subsequent to the actual date of payment, and, therefore, erroneous	73,048 40
Total.....	109,363 17
Misapplication, \$36,314.77."	

It appears that the chief disbursing officer, General Balloch, while waiting the passage of a deficiency bill, in order to avoid breaking up all the organization of the office and stopping all the current business of the Bureau, including as its principal work the payment of bounties, borrowed from the general fund to his credit on his disbursing accounts, which consisted almost of the moneys paid to him by the Pay Department, upon a settlement of the bounty claims, this sum of \$36,314.77, which amount was replaced from the Deficiency appropriation of \$127,000 for the service of the Bureau as soon as it became available.

"Vouchers covering time subsequent to the actual date of payment, and therefore erroneous, \$73,048.40."

This charge is not sustained, but is directly contradicted by the evidence, there was no such transaction as is here charged.

The only other matter contained in the letter of the Secretary of War, of December 4, 1873, and accompanying documents, that now remains to be considered, is the question of confusion and incompleteness in the records of the Bureau of Refugees, Freedmen and Abandoned Lands.

As is natural, the clerks in the Adjutant-General Office on the one side, and the clerks of the Bureau at the time of its transfer to the War Department, on the other, gave testimony directly in conflict. The one party charged that there was confusion of records before; the other maintained that whatever confusion was found occurred after the transfer to the War Department, and was due to carelessness and recklessness in the removal.

The court did not deem it necessary to investigate *this dispute*.

It is certain that there must necessarily have been confusion which would arise without fault in any one. To transfer to new hands, in a very short time, and to remove to another building the immense and varied records of so extensive a business machinery; so ramified throughout the country; in the hands of so many

different people, for so many different objects; and covering a period of seven years, as that of the Bureau of Refugees, Freedmen and Abandoned Lands, implies necessarily greater or less confusion for a long time after such transfer, even if it had been made by the same officials previously engaged upon it and there had been perfect harmony on the subject.

The evidence before the court certainly does not indicate anything like such an amount of confusion and incompleteness as is charged, nor more than was reasonably to be expected under the peculiar circumstances of the transfer, and in view of the peculiar nature of the business of the Bureau.

SECOND LETTER OF THE SECRETARY OF WAR, JANUARY 5, 1874.

The first charge in this letter refers entirely, it seems, to the fact "that funds of the United States duly certified as deposited with the United States Treasurer, and in other depositories, were not so deposited." Tables for 1867, 1868, 1869, 1870, and 1871 are given to show the discrepancies between the amounts reported by General Balloch, and the amounts actually in the Treasury of the United States in Washington, D. C., at the time stated. The Second Comptroller testified that such discrepancies were the general fact in such statements, and that seldom, if ever, were or could be the statements of balances made monthly by disbursing officers without some such discrepancies. In the cases in question, he selected at random four of the statements on page 2, part 2, Exhibit B, (letter of Secretary of War, of January 5, 1874,) and after giving them an examination, with the aid of General Balloch's clerk, (Terry,) he found that they were satisfactorily explained. Nothing is shown by the testimony to discredit this statement or its applicability to all the tabular statements embraced in this letter, or to indicate any misuse of public money, fraud, or purpose of fraud.

INVESTMENT OF PUBLIC MONEY IN UNITED STATES BONDS.

The first of these investments was that of the large portion of the "irregular bounty-fund," which seems to have first come into the hands of General Balloch in United States bonds, but which investment was sanctioned afterward by the act of March 2, 1867. The second investment was of \$834,875 of the "regular bounty-fund" in United States bonds, known as currency sixes. It appears, in the testimony of the Second Comptroller, that before investing this amount in bonds, General Howard called on him, and informed him that large amounts of money for paying bounties, under the act of March 29, 1867, were accumulating in his hand, and asked if the Comptroller judged that he was authorized to invest the money in United States bonds pending the payments to the rightful parties. The Second Comptroller ren-

dered the opinion that General Howard had the right so to invest this Bounty-money, and that there was no law to prohibit it. His reasons are given in full, in his testimony on the 37th day of the session of this court, and are still held by him. On this authority General Howard made the investment of \$334,875, and a subsequent investment of \$279,375, as set forth in the letter of the Secretary of War. The amount of interest collected on the investment, \$279,375, was \$9,063.22, which was accounted for by General "Balloch" in account-current signed by him, and approved by General Howard on the 27th of December, 1871, heretofore explained. General Balloch, in a letter dated January 3, 1874, makes a statement of the amount received from the interest accruing on the investment of \$334,875=\$19,446.57—and on account of the expenditure of that sum contains an item of \$1,338.50 for reimbursements on account of double payment. This item has already been dealt with in the earlier part of this statement of facts.

The second item in this account, however, remains unexplained to the satisfaction of the court. It amounts to \$16,652.25, and purports to have been paid for "school-houses and asylums." It appears, however, that it is a duplicate or triplicate of a voucher on which credit was allowed in March, 1871, and has, therefore, been thrown out by the accounting officers of the Treasury, who hold Balloch responsible for the amount. He is now endeavoring to settle it. There is a controversy as to how and when this voucher was discovered to be a duplicate of one already filed in the Treasury and allowed, whether first by officials of the War Department or by "General Howard." It is clear that (however that question may be decided) "General Howard" did cancel his approval, and did report the facts to the War Department, and to the Third Auditor, as soon as he discovered it. The amount remains unaccounted for.

It is to be remarked, however, that this matter forms no part of the charges contained in the letters of the "Secretary of War" and accompanying documents which this court was required to investigate.

OPINION OF THE COURT.

First.—The court is of opinion that, in the matters referred to it for investigation, General O. O. Howard has not, with knowledge and intent, violated any law of Congress, regulation of the Army, or rule of morals, and that he is "not guilty," upon legal, technical, or moral responsibility in any of the offenses charged.

Second.—The court finds that General Howard, when charged by his Superiors with a great work arising out of the war, devoted his whole time and all his faculties and energies to the execution of that work. In this he employed hundreds of assistants

and dealt with hundreds of thousands of men. In regard to the expenditure of money, it appears that his accounts are closed and settled to the satisfaction of the Accounting Officers of the Treasury, whose decisions in such matters are by law the highest authority, "final and conclusive upon the Executive branch of the Government, and subject to revision only by Congress or the proper courts."

Third.—In relation to the investment of certain public moneys in United States bonds, while the court does not hold that such investments were justified by existing laws, yet in view of the fact that these investments were made only under the opinion and advice of the Second Comptroller, the court attaches no blame to General Howard therefor. The investment of portions of a similar fund, viz: the "irregular bounty-fund," had previously been authorized by express law.

Fourth.—Some questions arising out of the sudden termination of the operations and organization of the Freedmen's Bureau yet remain to be settled, with those who were formerly subordinates and assistants to the Commissioner. Some few erroneous payments made by honest subordinates, and some others made, or not made by officers now dead or cashiered for fraud, remain to be adjusted. The adjustment of these matters belongs properly to the successors of General Howard in the Bureau; and in these matters, as in all others brought to notice of the court during thirty-seven days of careful and laborious investigation, the court finds that General Oliver O. Howard did his whole duty, and believes that he deserves well of his country.

II. The foregoing Report and Opinion having been submitted, with the proceedings, to the President, the following are the orders thereon:—

The finding of the Court of Inquiry is approved.

U. S. GRANT.

July 2, 1874.

GENERAL ORDERS }
No. 76. }

WAR DEPARTMENT,

ADJUTANT GENERAL'S OFFICE,

Washington, July 3, 1874.

By direction of the President, Brigadier General *O. O. Howard* is assigned to the command of the Department of the Columbia, and will proceed to the Headquarters, Portland, Oregon, with as little delay as practicable.

BY ORDER OF THE SECRETARY OF WAR:

THOMAS M. VINCENT,

Assistant Adjutant General.

